

EXHIBIT E

Redrafted Declaration of Kathleen T. Zellner
In Support of Plaintiff's Redrafted Responses to
Defendants' Renewed/Second Motions for Summary Judgment
(C11-5424BHS)

IN THE UNITED STATES DISTRICT COURT
IN THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAYMOND SPENCER,
Petitioner,

vs.

JOSEPH KLAUSER, Warden, Idaho
State Institution; CHRISTINE
GREGOIRE, Attorney General,
State of Washington,

Respondents.

No. C94-5238RJB

ORIGINAL

DEPOSITION UPON ORAL EXAMINATION
OF
SHARON A. KRAUSE

DATE TAKEN: May 22, 1996

TIME: 10:30 a.m.

PLACE: Hall of Justice
Longview, Washington

SUZAN R. WELLS
Archer Associates, Inc.
P. O. Box 1092
Longview, Washington 98632
(360) 423-2195

Spencer002543

1 whether or not something occurred without leading them.
2 Afterward I always spoke to the parents again alone
3 without the child present, shared with them what the
4 child said to me, and then had the child come back into
5 the room and in summary tell the parents what the child
6 told me so the child didn't leave there thinking maybe
7 the parents didn't know what happened. And there's
8 reasons why I did all of those things.

9 Make reports, do any follow-up that, you know, can
10 assist in establishing whether or not something
11 occurred, attempt to interview the accused if possible.
12 Sometimes we made arrests. And then forward the reports
13 to the prosecutor.

14 Q Let me ask you, when the investigation concerned a young
15 child, say under the age of ten, and the allegations
16 included allegations of either vaginal or anal
17 penetration, would you refer the parent and child to a
18 physician for a sexual assault examination?

19 A Yes.

20 Q Did you have particular physicians or places that you
21 would refer parents and children to in Vancouver?

22 A Initially when I began doing this, no. There were times
23 when we might have made referrals to -- you know, people
24 have their own physicians, to Vancouver Clinic. There
25 are some people -- There are a number of doctors now in

1 police officers with any of the Sacramento law
2 enforcement agencies?

3 A I remember I did. I don't remember who it was. I think
4 -- and I'm guessing. I think it was before I went down
5 I spoke with one of the detectives or an officer down
6 there.

7 Q Do you recall whether or not you received any reports
8 from Sacramento before you went down to interview
9 witnesses in Sacramento?

10 A I don't recall.

11 Q At some point in time during the course of your
12 investigation, did you suggest or refer DeAnne Spencer
13 to any doctors to have Kathryn Spencer examined?

14 A To be honest with you, I don't recall specifically
15 discussing that with her. However, I would be real
16 surprised if I didn't. That's all I can tell you. I
17 don't remember.

18 Q And based on what you've already told us about your
19 protocol, it would be your usual practice to refer the
20 parent to have the child examined?

21 A Exactly.

22 Q Do you recall the general nature of the allegations that
23 were coming from Kathryn Spencer?

24 A No.

25 Q Do you recall, let me ask and see if this refreshes your

1 memory, that some of the allegations included
2 vaginal-penile penetration?

3 A To be honest with you, I don't remember what she told me
4 happened.

5 Q Okay.

6 A There have been thousands of cases since and I really
7 don't remember specifically.

8 (Deposition Exhibit No. 1 was
9 marked for identification.)

10 Q (By Mr. Camiel:) Ms. Krause, I'm handing you what's
11 been marked as Exhibit 1 to your deposition and it's
12 four pages. The top page is titled Utility Report. Why
13 don't you take a look at that. I'm going to ask whether
14 or not that is what you received from Mr. Samson along
15 with his letter.

16 A It is.

17 Q Do you recall, prior to your receiving these documents
18 from Mr. Samson, do you recall having seen this report
19 before and the records that are attached?

20 A I'm assuming I did. That's my report. I had no
21 independent recollection of it if -- I know that I did
22 because that's my report.

23 Q All right. When you say that's your report, you're
24 referring to the top page?

25 A The little face sheet. And it's indicating that these

Sharon A. Krause

1 things are attached.

2 Q All right. And that face sheet is titled a Utility
3 Report?

4 A That's correct.

5 Q And it indicates a date of 10-12-84?

6 A It does.

7 Q The narrative portion of the report indicates that
8 copies of Therapeutic/Diagnostic Procedures Report
9 forwarded to this department by University of California
10 Davis Medical Center in Sacramento, California,
11 reference an examination conducted on Kathryn Spencer
12 regarding sexual abuse allegations involving Kathryn and
13 her natural father Clyde Ray Spencer. According to your
14 report, it appears that these records were sent directly
15 from the medical facility to your office.

16 A It appears that way.

17 Q In order to get these reports, would you have had to
18 have Kathryn Spencer's mother execute a medical records
19 release?

20 A Most -- It's my experience that most physicians would
21 ask that there be a medical release. I don't
22 necessarily always ask. Oftentimes the physician has
23 someone sign a release at the time the exam is done. So
24 I don't remember whether I sent her something and asked
25 or -- I sent something and asked for the report or if

1 magnifying during an exam of a child, anal or
2 vaginally. It's my understanding that if there are
3 lesions or there's been tearing and healing, it may be
4 detected with a colposcope and it wouldn't by the naked
5 eye.

6 Q Have you been involved in cases before where the
7 prosecution has presented photographs that were taken
8 with colposcopic exam?

9 A Well, I'm usually excluded from the courtroom when
10 that's going on, but I'm sure -- I know there's been
11 cases I've been involved in where that was utilized by
12 the physicians.

13 Q Have you reviewed with physicians as a part of some of
14 your investigations photographs depicting physical
15 evidence of sex abuse through colposcopic exam?

16 A I don't know that I've ever sat down with a physician
17 and done that. But I've seen photographs in training.

18 Q Now, the report Exhibit No. 1 that you have in front of
19 you, do you know whether or not this report was ever
20 forwarded to the Clark County prosecutor's office?

21 A Like I explained, I'm told it wasn't in their file. If
22 they have all the other reports, I can't imagine them
23 not having this one. Also, based on Jim Peters and
24 knowing him and knowing how meticulous he is and knowing
25 historically what I would do, there is no doubt in my

Sharon A. Krause

1 mind if they didn't have a copy, he was aware of it when
2 I got it. We talked.

3 If CAIC -- If I have a prosecutor on a case, he may
4 not have the whole case file or I may still have some
5 reports I haven't shipped up to him, but there would be
6 no doubt in my -- 99 percent sure that he had this
7 information. I can't imagine him not having the report
8 if he had all the rest of the reports. And I'm told
9 that it was in Vancouver Police internal investigation
10 file that they did. So why would I send it to him and
11 not the prosecutor? That doesn't make sense.

12 Q Do you know how it was that Vancouver Police Department
13 received your reports, your investigative reports in the
14 Spencer case?

15 A Not really. I don't remember -- I know that they were
16 doing an investigation. My mind just went blank. Jim
17 Holtz with Vancouver Police worked on it. I spoke to
18 him. I think he may have done some interviews. It
19 seems like there were other people. I don't remember if
20 they got them from the prosecutor or they got them from
21 me or they got them from records. I don't know.

22 Q Now, you indicated that you spoke I guess recently with
23 Kim Farr, deputy prosecuting attorney. And as I
24 understand it, Kim Farr indicated that a review had been
25 done of the prosecutor's files and they didn't have the

1 A Yes. I'm sure it was.

2 Q What was significant about that? Why was that a
3 problem?

4 A Well, I think that's a big problem. We weren't looking
5 at one. There could have been others. The other thing
6 that concerned me personally was that I remember him
7 saying some of the other men had guns on their ankles.

8 Q You were concerned that these other potential suspects
9 might be police officers?

10 A Absolutely.

11 Q Was there an investigation that followed up on that?

12 A There was. And I remember Jim Holtz and I discussing
13 that.

14 Q Jim Holtz was with the Vancouver Police Department?

15 A Was the detective who was doing it. Other than that, I
16 can't really tell you. We were never able to identify,
17 you know, if there was, who they were.

18 Q Now, during the period of time of the Spencer
19 investigation, did you become aware that your
20 supervisor, Mike Davidson, began having a romantic
21 relationship with Shirley Spencer?

22 MR. SAMSON: I'll object on the
23 grounds of relevancy. This claim was addressed by the
24 ninth circuit and was rejected by the ninth circuit so I
25 don't think the issue is really relevant anymore to this

1 action. But you can answer if you want.

2 Q (By Mr. Camiel:) You can answer.

3 A I was aware of it, yes. So was everybody else.

4 Q Was that ongoing while you were conducting your
5 investigation?

6 A My memory of that, that was way on into the
7 investigation that I became aware of that. And I don't
8 -- I don't remember if it -- You know, it's been so
9 long. My recollection of that is that when I became
10 aware of that, it was long after I had interviewed
11 Little Matt. And I don't remember if it was before he
12 pled or after, to be honest with you. But at some point
13 I became -- but it was --

14 Q At the point where you learned about it, you've
15 indicated that it was long after you'd interviewed
16 Little Matt.

17 A It seems to me. That's what I think it was. That's my
18 memory.

19 Q I wanted to identify "Little Matt" as Matt Hansen.


20 A Correct.

21 Q Matt Hansen is the Matt that lived up here in the state
22 of Washington?

23 A Right. His mother is Shirley Spencer.

24 Q When you learned that your supervisor, Michael Davidson,
25 was involved with Shirley Spencer, at the point where

County of Clark) ss.


SUZAN R. WELLS, CSR #WELLSSR325BH
Notary Public for the State of
Washington, residing at Vancouver,
Washington. My commission
expires on 8/29/97.

SUPPLEMENTAL RPT.

☐ CONTINUATION OF:☐ Incident Rpt. ☐ Supplemental Rpt.

TYPED BY:

S. Krause

PROCESSED BY:

DATA ENTRY BY:

CLASSIFICATION (INCLUDE RCW NO.)

Recent Liberties/Statutory Rape 1st Degree

LOCATION OF INCIDENT

81 N.E. Lucia Falls Rd., Yacolt, Wash.

DATE OF INCIDENT

Summer of 1984

PRESENT DATE

10-12-84

ADDITIONAL PERSONS INFO - ATTACH ADDITIONAL INCIDENT REPORTS. DETAIL ADDITIONAL PERSON INFORMATION NOT COVERED IN BOXES.

ADDITIONAL SUSPECT INFO - ATTACH ADDITIONAL INCIDENT REPORTS. DETAIL ADDITIONAL SUSPECT INFORMATION NOT COVERED IN BOXES.

INJURED PERSONS - (VICTIMS, WITNESSES, OFFICERS, SUSPECTS) - DETAIL INJURIES, MEDICAL EXAM, DISPOSITION.

ADDITIONAL PROPERTY - ATTACH UTILITY/PROPERTY REPORT. DETAIL INFORMATION NOT INCLUDED IN BOXED PROPERTY SECTION.

5. PHYSICAL EVIDENCE - DETAIL WHAT AND WHERE FOUND, BY WHOM, AND DISPOSITION.

6. VEHICLES - SUSPECT VEHICLE INFORMATION IN SAME ORDER AS VEHICLE SECTION. ADDITIONAL VEHICLE INFORMATION NOT INCLUDED IN BOXES.

7. PARENT, GUARDIAN'S NAME, ADDRESS, PHONE NUMBER OF JUVENILE IN DETENTION. INDICATE IF CONTACTED AND IF INCIDENT ADJUSTED.

8. LIST DOCUMENTS ATTACHED - (AIR FORM, MEDICAL RELEASE, WAIVERS, ETC.)

9. RECONSTRUCT INCIDENT AND DESCRIBE INVESTIGATION.

10. SYNOPSIS FOR PROSECUTOR ON CLEARED CRIMES AND CUSTOMERS.

ITEM NO. ARE LISTED IN ORDER OF STEP 1 TO 10. IF STEP IS UNNECESSARY, OMIT.

M	CODE	PERSONS CODE	NAME OF VICTIM - OTHER LAST, FIRST, MIDDLE	DOB
			SPENCER, Kathryn	01-13-79
V1			Copies of Therapeutic/Diagnostic Procedures Report forwarded to this department by University of California Davis Medical Center, Sacramento, California reference: an examination conducted on Kathryn Spencer regarding sexual abuse allegations involving Kathryn and her natural father, Clyde Ray Spencer.	

CASE NO.

84-8506

☐ CPS ☐ CMHP ☐ DSHS ☐ PATROL ☐ DETECTIVE ☐ UNFOUNDED
☐ JOH ☐ PAT ☐ SIU ☐ ARREST ☐ EXCEPTIONAL

REPORTING OFFICER:

Sharon A. Krause K/43 Detectives

DIST.

REVIEWED BY:

DATE:

EXHIBIT

Sharon002594

Krause

USE PATIENT PLATE

UNIVERSITY OF CALIFORNIA DAVIS
MEDICAL CENTER
SACRAMENTOTHERAPEUTIC/DIAGNOSTIC
PROCEDURES REPORT032 084 97 17 4 3R
SPENCER, KATHRYN E.
F 01 13 75 EXP 10 84762 / PED ACC
13 AUG 84
08 30 d4

All cases of Suspected Child Abuse Neglect are to be reported by telephone and in writing (by submitting this form) to the designated agencies (C and D below) within 36 hours. (Penal Code Section 11161.5 and 11161.7)

GENERAL INFORMATION

Patient's Name SPencer Kathryn Unl//

Address 3930 Bechra City Sacramento State CA Phone 482-6057

Age 5 Birthdate 1-13-79 Race C Sex F Date, Time of Examination 8-30-84 Place of Examination Peds Acute 1:30

Reporting Party's Name Kathryn Eells-Magee, M.D. Family Practice UCD Department 453-3630 Phone

FAMILY—Parents:

Name (Last, First, Middle)	Birthdate	Sex	Race	Name (Last, First, Middle)	Birthdate	Sex	Race
<u>Spencer DeAnne</u>		<u>F</u>	<u>C</u>	<u>Clay Ray Spencer</u>		<u>M</u>	<u>C</u>
Address <u>3930 Bechra</u>				Address <u>Vincennes</u>			
Home Phone <u>() () ()</u>	Business Phone <u>() () ()</u>			Home Phone <u>() () ()</u>	Business Phone <u>() () ()</u>		

Siblings:

Name	Birthdate	Sex	Race	Name	Birthdate	Sex	Race
1. <u>Matthew</u>	<u>8yr</u>	<u>M</u>	<u>C</u>	4. _____			
2. _____				5. _____			
3. _____				6. _____			

Child's Family/Home Environment—Include risk factors in parent and/or child. Specify who is/are caretaker(s).

Katie lives with Mother and Siblings. Parents divorced. Father
has visitation for six weeks in Summer, week at Easter,
and two at Christmas every other year.

Previous reports of abuse of child or in family? ☐ Yes ☒ No If yes, describe when, who involved, etc.

Print Last Name

Eells-Magee

Signature

K Eells-Magee

Date of Report

8/30/84

032 084 97 17 4 3R

SPECIAL, MATHSYN E.

F 1 12 76 EXP 10 84

4 PG 482 C057

762/PED ACC

00 30 04

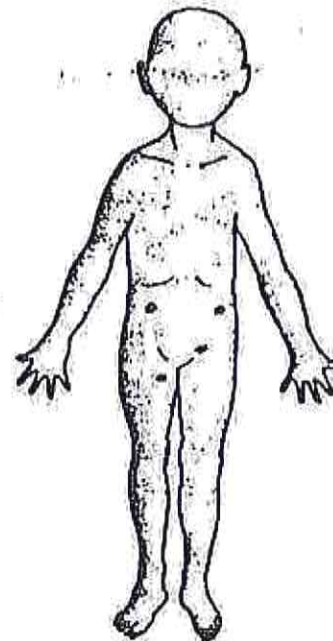
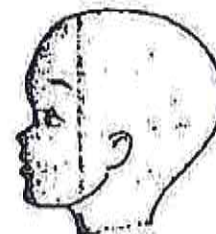
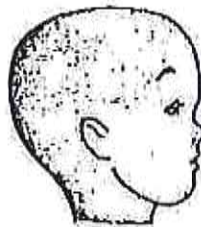
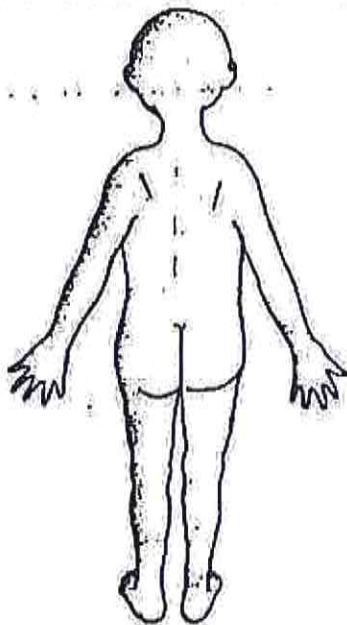
UNIVERSITY OF CALIFORNIA DAVIS
MEDICAL CENTER
SACRAMENTOTHERAPEUTIC/DIAGNOSTIC
PROCEDURES REPORT13:23
PHYSICAL EXAMINATION

Patient's General Appearance:

White female child covering in her
mother's lap.Ht 110.5 cm 25th %ileWt 17.0 kg 15th %ile

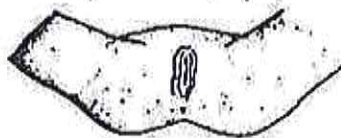
Hc _____ cm _____ %ile

Locate and describe in detail any injuries or findings related to maltreatment. Indicate location of lesions/findings; shade for bruises or burns. Beside each injury indicated note color, size, pattern, texture, and sensation. Note if recognizable imprint or bruise goes around curve.

4 erythema
bug bite

A pelvic examination should not be performed unless the parent, guardian or minor consent or unless necessary as part of treatment. See Department of Health Regulations Title 22, Division 2, Victims of Sexual Assault.

Pelvic
No erythema
Vaginal intact
No lacerations
No swelling

FINDINGS: Pelvic within normal limits.

Fundoscopy Examination—☐ Normal ☐ Abnormal ☒ Not done
Development Assessment—☒ Normal ☐ Questionable ☐ Abnormal, by ☐ DDST ☐ Estimate ☐ Other
Behavioral Assessment—☐ Normal during visit ☒ Abnormal during visit (Specify) anxiety to pinky scan
X-ray bone survey—☐ Normal ☒ Not done ☐ Abnormal (findings) through exam
Hemostasis tests performed—☐ PT ☐ PTT ☐ Platelets ☒ None ☐ Other _____ Results _____
Cultures for gonorrhea performed—☒ genitalia ☒ throat ☒ anus. VDRL—☐ Done ☒ Not done
Menarche age _____ Periods regular? ☐ Yes ☐ No L.M.P. _____
Pregnancy test—☐ Positive ☐ Negative ☒ Not performed

Signature

Print Last Name

Date of Report

Ells-Mance

Ells-Mance

8/30/84

032 084 97 17 4 3R

SPENCER, KATHRYN E.

F 01 13 70 EXP 10 84

4 PG 482 E057

762/PED ACC

08 30 84

UNIVERSITY OF CALIFORNIA DAVIS
MEDICAL CENTER
SACRAMENTOTHERAPEUTIC/DIAGNOSTIC
PROCEDURES REPORT

MALTREATMENT HISTORY: 13:23

Give history of event(s) including time, date, place, perpetrator, circumstance, people present, etc. Underline name of person giving each version, e.g., Father said ... Child said ... Officer said ...

Mother said

Children were visiting father for 6 weeks during Summer. Returned to mother on 8-26. Step mother reported to Vancouver police that the father had molested. Report was based on remarks Katie had made to step mother on 8-24-84. Katie refused to talk or answer questions during exam. She has refused to talk with mother regarding report. M. S. 8-82.

Diagnostic Conclusion(s):

Child's story consistent with history of molestation.

No physical findings.

MANAGEMENT

1. Reported to: Officer ID No. Department Phone
Pat Fildes Sheriff 440-5191
Dependent Intake or CPS Worker Department Phone
OPS 366-2386

2. Medical Follow-up: Date Time

☒ Scan F/U Clinic ☐ P.M.D. (Name) 9-29-84☐ UCD Clinic (Name)☐ Other☐ None (Why not?)

3. Mental Health Follow-up: Date Time

☒ Referred to Victim Witness☐ None

4. Disposition:

Police Hold? ☐ Yes ☒ No☐ Receiving Home ☐ Foster home ☐ Relative's home ☒ Parent's home ☐ Other☐ Hospitalized

5. Other Treatment:

Print Last Name

Eells-Magee

Signature

K. Eells-Magee

Date of Report

8/30/84

SUSPECTED ABUSE

EXHIBIT F

Redrafted Declaration of Kathleen T. Zellner
In Support of Plaintiff's Redrafted Responses to
Defendants' Renewed/Second Motions for Summary Judgment
(C11-5424BHS)

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF WASHINGTON
3 AT TACOMA

4 CLYDE RAY SPENCER, MATTHEW)
5 RAY SPENCER, and KATHRYN E.)
6 TETZ,)

7 Plaintiffs,)

8 vs.)

NO. 3:11-cv-05424-BHS

9 FORMER PROSECUTING ATTORNEY)
10 FOR CLARK COUNTY JAMES M.)
11 PETERS, DETECTIVE SHARON)
12 KRAUSE, SERGEANT MICHAEL)
13 DAVIDSON, CLARK COUNTY)
14 PROSECUTOR'S OFFICE, CLARK)
15 COUNTY SHERIFF'S OFFICE, THE)
16 COUNTY OF CLARK and JOHN DOES)
17 ONE THROUGH TEN,)

18 Defendants.)

19 DEPOSITION UPON ORAL EXAMINATION OF JAMES MICHAEL DAVIDSON
20
21
22
23
24
25

Monday, November 5, 2012
Olympia, Washington

ZELLNER (James Michael Davidson, 11/5/12)

12

1 Q So you assigned cases. What else did you do as a
2 supervisor?

3 A Reviewed the progress of cases.

4 Q How often would you review the progress of cases --

5 A It would depend --

6 Q -- in 1984?

7 A It would depend upon the case, the nature of the
8 allegation.

9 Q Well -- all right. Did you have weekly reviews or did you
10 have daily reviews?

11 A Again, there was no established policy on reviews because
12 it would depend upon the type of investigation.

13 Q And when you would review a case, what would that involve?

14 A It would entail reviewing the progress that the officers
15 were having, the individual detective that was assigned,
16 review their progress on a particular case, review if there
17 were any problems, review what follow-up needed to be done.

18 Q Did you have face-to-face meetings, then, with these
19 detectives?

20 A In order to review their progress, yes.

21 Q So you had verbal communication with them; is that correct?

22 A That's correct.

23 Q Okay. And then you also reviewed their reports?

24 A Yes, ma'am.

25 Q Okay. And then did you sign off on their reports?

ZELLNER (James Michael Davidson, 11/5/12)

24

1 Q Do you know through the investigation -- well, let me ask
2 you this. That's different than what you had initially
3 told me that the call came in and just reported Ray Spencer
4 had alleged by sexually abused his daughter? You would
5 agree with that, right?

6 A I'm sorry?

7 Q You would agree that Katie or Kathryn Spencer's initial
8 report involved allegations against other people, DeAnne
9 Spencer, her brother Matthew, Karen Stone? You're aware
10 that Katie Spencer had claimed all of those people had
11 sexually abused her?

12 A Let me ask you what you're asking. I'm not certain -- are
13 you asking me about the original report or about the report
14 that I'm looking at here?

15 Q I'm talking about the report on 8/29/84. We talked about
16 the original report to the patrol officer that you
17 reviewed, okay? Then you tell you assigned the case to
18 Sharon Krause, and she began working on the case, correct?

19 A That's correct.

20 Q Okay. And she began preparing reports that you were
21 reviewing?

22 A Correct.

23 Q Okay. And you at some point did review this report on
24 8/29/84?

25 A We're talking the initial report from the deputy sheriff?

ZELLNER (James Michael Davidson, 11/5/12)

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1 having at that time?

2 A My wife and I had been married for about 24 years. We'd
3 had a slow disintegration of our marriage over probably the
4 prior ten years. We had stayed together principally
5 because we had three children.

6 Q When you say that -- how would you describe the state of
7 your marriage in 1984 around the time when you first met
8 Shirley Spencer?

9 A I was living at home and we -- we had -- my wife and I had
10 a social contact. It was not a regular, normal marriage in
11 the sense that you would normally expect it to be.

12 Q And when you say not -- did you have -- were you still
13 having sexual relations with your wife at that point?

14 MR. FREIMUND: I think this is getting pretty
15 far down the road into personal, private information that
16 is not relevant.

17 MS. ZELLNER: I think I have completely -- well,
18 that's not a proper objection in a federal case. You'd
19 have to assert a privilege and instruct him not to answer,
20 and I believe that we have a green light from Judge Settle
21 that we can explore the relationship that he had with
22 Shirley Spencer, and part of that I want to explore is the
23 quality of his marriage at the time he met her.

24 MR. FREIMUND: I would disagree with your
25 analysis of having a green light, as you put it. I think

ZELLNER (James Michael Davidson, 11/5/12)

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1 have not discussed this case with her?

2 A As far as I can remember, no.

3 Q Going back to the relationship with Shirley Spencer, would
4 you agree that in the beginning of this investigation,
5 there were some problems with Katie Spencer's description
6 of what had happened and who was involved in her alleged
7 sexual abuse?

8 A If we're talking about the information that was contained
9 in the report -- what do you mean by problems? I'm not
10 certain that -- what are we talking about, defining
11 problems?

12 Q Well, Ray Spencer was arrested twice, right? The first
13 arrest was just for a misdemeanor, am I correct?

14 A I believe so, correct.

15 Q And he was just arrested for a misdemeanor because
16 apparently the case wasn't strong enough to charge him with
17 a felony?

18 A I can't, nor do I believe that I have knowledge about the
19 particulars of why it was charged or he was arrested in the
20 manner that he was, under the charge that he was.

21 Q Who was in charge of making those decisions?

22 A I would assume that it would have been a consultation with
23 the prosecuting attorney's office, whatever deputy
24 prosecutor was assigned at that time.

25 Q Up until Ray's first arrest, had you had any communications

ZELLNER (James Michael Davidson, 11/5/12)

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1 with Jim Peters about the Ray Spencer case?

2 A Again, I can't recall specific -- we had specific
3 conversations with Mr. Peters during the course of the
4 entire investigation. Can I sit here today and define
5 specifically what time frames that those conversations took
6 place and in relationship to what portion of the
7 investigation? I cannot.

8 Q Did you have conversations with Mr. Peters -- we know that
9 the entire case started in July of 1984. Did you have
10 conversations with Mr. Peters in that time span from July
11 up until Mr. Spencer's first arrest, just that time period?
12 Do you have a recollection of that?

13 A I do not have a recollection of that, no.

14 Q Do you, at a certain point, learn that there's going to be
15 an arrest of Ray Spencer for misdemeanor charges?

16 A I can only say that I would assume that I would have
17 learned that information without having specific detail.

18 Q How do you -- how do you define probable cause?

19 A That -- anything that would lead a reasonable person to
20 believe that a crime had been committed.

21 Q All right. So can you tell me what was the probable cause
22 for the first arrest of Ray Spencer on a misdemeanor
23 charge?

24 A Again, I cannot tell you that because I wasn't involved in
25 that portion or that decision-making process.

ZELLNER (James Michael Davidson, 11/5/12)

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- 1 pursue any charges in Sacramento; is that correct?
- 2 A I'm not aware that -- at least that there was any
- 3 allegations that any of this occurred in California.
- 4 Q Well, you're aware that a prosecutor named Rebecca Roe
- 5 evaluated the evidence for King County, that she was asked
- 6 to evaluate whether the case was legally sufficient?
- 7 A I'm aware that there's a section contained in this file
- 8 that says she reviewed the case that was referred to her
- 9 from Clark County. That has nothing --
- 10 Q Right.
- 11 A -- to do with Detective Flood.
- 12 Q Plaintiff's Exhibit 21, if you could look at that, that's a
- 13 report that's signed off on by Rebecca Roe?
- 14 A I have that copy here, yes, ma'am.
- 15 Q Yes. Have you reviewed this report in your preparation for
- 16 the deposition today?
- 17 A I reviewed it to the best of my ability. I will have to
- 18 say that there's some of the -- some of the penmanship that
- 19 I was not able to discern exactly what she was writing.
- 20 Q Well, she does, at the top on her report, mark the box that
- 21 says case is being returned because it is legally
- 22 insufficient. Do you see that notation?
- 23 A I do, yes, ma'am.
- 24 Q And she points out some of the problems -- and this is
- 25 November 27 of 1984 -- some of the problems that she saw

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1 with the sufficiency of the case. One of the first
2 problems she sees is that the child, Kathryn Spencer, is
3 extremely reluctant to talk about the facts and that Sharon
4 Krause had to spend several hours one-on-one with the
5 victim who indicated that she did not want to talk about
6 it.

7 Were you aware of this information before Ray was
8 charged in February of the felonies? Were you aware of the
9 Roe report?

10 MR. BOGDANOVICH: I'm going to object to the
11 form of the question. I think it left off part of the
12 report that was being quoted.

13 MR. FREIMUND: You can go ahead and answer.

14 MS. ZELLNER: I can read the entire entry in.

15 Q (By Ms. Zellner) First of all, were you aware of this
16 report before the felony charges were brought against Ray
17 Spencer in February of 1985?

18 A To my knowledge, I was not.

19 Q When did you become aware of this report?

20 A I believe it would have been during the course of the
21 appeal process.

22 Q Is it your testimony that this report was never in the
23 Clark County Sheriff's file?

24 A That would not be my testimony, no, ma'am.

25 Q So what is your testimony about this report? I mean,

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- 1 obviously, it was authored on November 27, 1984. Were you
2 unaware of it?
- 3 A You're asking me at the time that Mr. Spencer was charged
4 with the felonies, was I aware this report existed?
- 5 Q Right.
- 6 A My response is I have no recollection of that, no, ma'am.
- 7 Q When you say -- you've repeatedly said you have no
8 recollection, and when you say you have no recollection of
9 the existence of this report, are you saying that it may
10 have been in the file and you just don't remember it?
- 11 A I'm saying that it's very likely it could have been in the
12 file and that I didn't see it because this report was
13 obviously not prepared for my review.
- 14 Q Would you have had -- would you have looked at all of the
15 reports that Sharon Krause received in this investigation?
16 Were you doing that on the Ray Spencer case?
- 17 A I would have reviewed the reports that Detective Krause
18 would have authored.
- 19 Q Would you have reviewed any material that others authored,
20 like Dr. Abrams?
- 21 A I believe that Dr. Abrams' report was sent directly to me.
22 If you notice in the address, it was addressed to me. So,
23 correct, yes, I would have.
- 24 Q Okay. And then you're saying with this report you don't
25 recall in this time frame that it was prepared, 11/27/84,

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1 A If during the course of the investigation, I had some
2 reason to be informed of that, that would be correct. But,
3 again, this information was provided to the prosecuting
4 attorney's office. I don't know when or if I was ever made
5 aware of this particular report.

6 Q Yeah, and I understand that about the report, and that is
7 not my question. My question is if you understood that
8 there were problems with Kathryn Spencer's rendition of
9 events prior to the charges being brought against Ray
10 Spencer on February 28th. Is this a news flash to you?
11 Did you not know there were these problems that existed at
12 the time?

13 A I'm aware that after the fact that there were some problems
14 with this investigation initially. That was after the
15 fact, not during the course of that investigation.

16 Q And wasn't it part of your duties and responsibilities to
17 learn if there were problems with the veracity of witnesses
18 in the cases that you were investigating?

19 A If I were investigating the case, certainly. If I were the
20 supervisor, I wasn't necessarily informed of every aspect
21 of that investigation.

22 Q Were you informed at any time before February 28, 1985,
23 that Kathryn Spencer had been inconsistent in some of the
24 details of her report of sexual abuse by her father --

25 A Again, I'm going to answer --

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1 Q -- at any time?

2 A -- I have no specific recollection of that information.

3 Q And if you had gotten that information, would that have
4 been important in your assessment of the veracity of the
5 claim? Would that have been important to know as a
6 supervising detective?

7 A I can only speculate that, first of all, certainly that
8 kind of information would be important. Again, the only
9 reason that it would be important is how we approached the
10 investigation from that point on.

11 Q Did you make decisions in the Ray Spencer case about how
12 the investigation was going to be conducted, or did you
13 delegate all of that to Sharon Krause?

14 A I don't know that in any case that I specifically outlined
15 the way any investigation assigned to any investigator
16 would be conducted.

17 Q Okay. I'm asking about this case, okay?

18 A Okay.

19 Q This specific case.

20 Did you direct Sharon Krause at any point to perform
21 any task in regard to this investigation? Did you say "Go
22 out and reinterview the child, go out and tape record it"?
23 Did you ever make any suggestion?

24 A I'm certain that probably during the course of that
25 investigation that there were some suggestions that I

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1 offered. I'm aware that particularly when there was a
2 discussion of her going to California to interview both of
3 the children. I don't recall specifically what directions,
4 or at this point due to the passage of time there's no
5 reports to reflect what I would have suggested, and I have
6 no independent recollection of that.

7 Q But you do agree that the reports reflect your involvement
8 at various stages of the investigation, don't you?

9 A I recall specifically being involved in certain portions of
10 that investigation, yes, ma'am.

11 Q Prior to the incident at the Salmon Motel where Matt Hansen
12 was allegedly molested, the case only had evidence of a
13 misdemeanor at that point, right, and then there was the
14 Matt Hansen alleged molestation, and then suddenly the case
15 became a felony case?

16 A I believe the allegations rose to a claim of a felony case
17 after Mr. -- after young Matt Hansen, Shirley's son, made a
18 disclosure, correct.

19 Q Now, Matt Hansen was taken to the Salmon Motel by Shirley
20 Spencer, right?

21 A I believe that she stated that, correct.

22 Q And despite the fact that her husband was out on personal
23 recognizance for molesting their daughter, Shirley Spencer
24 took her son to the Salmon Motel to spend the night with
25 Ray, right?

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1 correct?

2 A I think there was some additional interviews that were
3 conducted with his son and his daughter in California, and
4 collectively that was the basis for charging him with those
5 crimes, correct.

6 Q Okay. But the Matt Hansen incident was a big part of the
7 charging, wasn't it?

8 A I don't know that I can answer that. That would be the
9 prosecutor's position to answer.

10 Q You went to the Salmon Motel to attempt to corroborate Matt
11 Hansen's story, didn't you?

12 A I was requested to do that, that's correct.

13 Q And you reported back that there was a television that was
14 mounted high on the wall. Do you remember that?

15 A I do recall that, yes, ma'am.

16 Q And what was the importance of your observation about the
17 television being mounted high on the wall?

18 A That was part of what Shirley's son was stating that was
19 part of the room description during the time that he spent
20 with Ray at the Salmon Creek Motel.

21 Q Well, there wasn't any question that he spent the night
22 with Ray Spencer, right? There was no question he was in
23 the room, correct?

24 A There's none -- I'm not clear as to why you're asking that,
25 because that's the purpose of corroboration.

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- 1 Q All you corroborated, though, with the television, was that
2 Matt Spencer was in the room, right? That doesn't
3 corroborate sexual abuse.
- 4 A Nobody said that. I simply was corroborating --
- 5 Q Actually, it does say that. It does say that in the
6 report, that that was the piece of corroborating evidence.
7 I'm just asking you -- I'm not aware that Ray Spencer ever
8 denied that Matt Hansen was dropped off at the motel. Are
9 you aware that Ray Spencer ever denied that?
- 10 A Without reviewing the reports of Ray Spencer's statements,
11 I can't answer that question. I don't know whether or not
12 he did. I was requested to go to the Salmon Creek Motel to
13 corroborate the interior of the motel room provided by
14 young Matt Hansen, Shirley Spencer's son. That's what I
15 did.
- 16 Q There was no physical evidence in the room of any sexual
17 abuse, correct?
- 18 A At the time that I was there I don't know that I was
19 looking for that type of -- I was looking for corroborative
20 information.
- 21 Q So you were not there to look for corroborative
22 information?
- 23 A I said -- that was my statement. I was there to look for
24 corroborative information.
- 25 Q Right. What else besides the television on the wall

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- 1 A That's correct, yes.
- 2 Q You became aware during the investigation that there was a
- 3 videotaped interview made of Kathryn Spencer at the
- 4 Sheriff's Department on December 21, 1984, correct?
- 5 A Now, are you making a statement --
- 6 Q Yeah --
- 7 A -- or is that a question?
- 8 Q It's a question. You became aware that a videotaped
- 9 interview was done of Kathryn Spencer on December 11, 1984,
- 10 during the course of the investigation?
- 11 A I was aware that there was a videotaped interview done. I
- 12 don't recall the dates, and I don't recall when I was made
- 13 aware of that.
- 14 Q Were you made aware of the videotaped interview prior to
- 15 the charges being brought against Ray Spencer on
- 16 February 28, 1985?
- 17 A I can't recall that, ma'am.
- 18 Q When you say you can't recall it, do you mean that you
- 19 can't give me a specific date?
- 20 A I'm stating that I can't recall when I was made aware of
- 21 that videotape. Due to the passage of time -- this has
- 22 been some 26, 27 years ago -- I can't recall that specific
- 23 information, no, ma'am.
- 24 Q Well, we've all been provided -- we have thousands of pages
- 25 of documents, and you've been provided with several hundred

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1 pages of documents about this case, correct?

2 A Correct.

3 Q And you are aware as you sit here today that there was a
4 videotaped interview done of Kathryn Spencer, correct?

5 A I am today, yes, ma'am.

6 Q And do you have any idea in the last 25 years when you
7 became aware of that videotaped interview?

8 A I can say that I was probably aware of it at some time
9 during the 25 years. I can't be specific, and I don't
10 recall -- again, I don't recall that.

11 Q Do you recall whether you became aware of that videotaped
12 interview prior to Ray Spencer being sentenced?

13 A No, I cannot.

14 Q Have you reviewed the videotaped interview?

15 A I was provided a copy of that videotaped interview in 2009
16 or 2010 by then-Chief Criminal Deputy Prosecutor Dennis
17 Hunter as part and party --

18 Q Was that the first time --

19 A I'm sorry.

20 Q I'm sorry.

21 A -- as part and party --

22 Q Was that the first --

23 A -- to the appeal.

24 Q Was that the first time that you became aware of a
25 videotaped interview having been conducted of Kathryn

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1 A I didn't say that. I said if there was a report that
2 reflected that interview.

3 Q Okay. Was there -- should there have been a report made of
4 the interview?

5 A I would normally say, and I can't say specifically
6 pertaining to this, but the normal course would be that you
7 would author a report pertaining to an interview of a
8 victim or witness or suspect.

9 Q And if I told you that no such report has been produced,
10 would you be surprised that a report wasn't made?

11 A I would only -- we're basing that upon your statement, not
12 to my personal knowledge. I don't know that there was no
13 report made.

14 Q You've never seen it, have you, a report made of the
15 videotaped interview?

16 A Again, I can't tell you that because I don't recall.
17 Without reviewing the entire file, I wouldn't know.

18 Q In the documents that we sent you, did you see a report of
19 the videotaped interview in those documents?

20 A Again, if I have permission to go back and reflect through
21 the reports, I will look to see if I have any record of
22 that.

23 MS. ZELLNER: Okay, why don't we take a
24 ten-minute break and let him look through those documents
25 and tell me if there's a report that we've all missed.

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1 asking you -- it sounds like, from what you've said before,
2 you tried to reviewed the reports in the file. If this
3 report had been in the file, you would have reviewed; is
4 that fair?

5 A If the report was in the file, I would have reviewed it if
6 I reviewed the entire case, correct.

7 Q Okay. Do you recall who requested you to go to the Salmon
8 Creek Motel to try to corroborate Matt Hansen's story?

9 A My recollection was that it was the Deputy Prosecutor Jim
10 Peters.

11 Q What's your -- when do you recall Jim Peters first getting
12 involved in the Ray Spencer case? It must have been
13 between the misdemeanor charges and felony charges, or
14 prior to that?

15 A My recollection was that once the report was forwarded to
16 the prosecuting attorney's office, Mr. Peters was involved
17 from that point on. That's my recollection.

18 Q And you're talking about the report of the Matt Hansen
19 allegations?

20 A I'm talking about the initial report with regards to
21 Kathryn Spencer.

22 Q Okay. So the very earliest report that the patrol officer
23 took; is that right?

24 A I don't know that I can state that he was involved at that
25 point. I can say that as a result of our follow-up

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1 MR. FREIMUND: You just specifically asked did
2 your attorneys provide you. That's where I'm having a
3 problem.

4 Q (By Ms. Zellner) Okay, Mr. Davidson, have you on your own
5 reviewed the Sheriff's file on the Ray Spencer
6 investigation?

7 A None other than what was provided to me by your office.

8 Q Okay. That was really my question.

9 In the interview that was done of Matt Hansen, were
10 you asking questions or was Sharon Krause asking questions?

11 A I believe Detective Krause was. I was simply present.

12 Q And -- okay. In her questioning of Matt Hansen, I believe
13 he was four or five years old at the time, were any
14 questions asked about his competency?

15 A Asked of whom?

16 Q Asked of Matt Hansen.

17 A Again, without reviewing the interview that Detective
18 Krause conducted, I can't answer that question.

19 Q Did you at any point in time suggest to Shirley Spencer
20 that Matt Hansen have a medical examination?

21 A I did not, no, ma'am.

22 Q At any time did you become aware that Matt Hansen had, in
23 fact, had a medical examination?

24 A I did become aware of that.

25 Q Was it a routine practice to refer alleged victims to have

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1 a medical examination?

2 A It would depend upon the nature of the allegation.

3 Q If there were allegations of vaginal rape, would that be
4 the kind of allegation that you would expect the alleged
5 victim would be referred for a medical exam?

6 A Yes, ma'am.

7 Q If Shirley Spencer had recalled in her testimony that you
8 did suggest to her that Matt had a -- have a medical exam
9 on these allegations, would you disagree with that
10 statement that she's made?

11 MR. FREIMUND: I'm going to object as an
12 improper hypothetical.

13 But go ahead and answer.

14 A I would first have to review the document in which she
15 indicated that I had suggested that.

16 Q (By Ms. Zellner) Well, do you have an independent
17 recollection of telling her that Matt Hansen should have a
18 medical examination?

19 A I do not have an independent recollection of that, no,
20 ma'am.

21 Q With a male child, when there are allegations of anal
22 penetration, would that be the kind of allegation that you
23 would expect to result in a referral to a doctor?

24 A Well, there's some -- there's some factors that need to be
25 addressed more specifically than just a general allegation.

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1 Q You're aware of testifying previously when you were asked
2 that question, and with a male child where there are
3 allegations of anal penetration, would that be the kind of
4 allegation that you would expect to result in a referral to
5 a doctor? And you answered -- this is the habeas
6 deposition testimony -- "I would agree with that, yes."

7 A Correct.

8 Q So are you not agreeing with that now?

9 A No, what I'm saying is that there are some parameters in
10 which we're talking time frames as opposed to when this
11 occurred and so on. There's an explanation that I would
12 offer additionally besides just responding "yes" or "no."

13 Q Well, you don't have -- you have no training as a medical
14 doctor, right?

15 A No, ma'am.

16 Q Okay. And you're not holding yourself out as a child abuse
17 expert?

18 A No, ma'am.

19 Q Okay. Did you become aware at a certain point in time that
20 there had, in fact, been an exam of Mr. Hansen, Matt
21 Hansen?

22 A Shirley's son? Is that who we're talking about?

23 Q Yes, Shirley's son. Yes.

24 A Okay. At some point in time during this entire process I
25 was aware that there was a medical exam.

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1 Q Would you expect a later report to encompass the reports
2 from the prior index?

3 A I'm not certain that I understand what you're asking.

4 Q Would you expect a subsequent report, a report later in
5 time, to encompass the documents from the first report?

6 MR. FREIMUND: You're saying "report." I think
7 you mean "index."

8 MS. ZELLNER: Index, right.

9 MR. FREIMUND: Yeah. Okay.

10 A Again, there is a report that's indicated in the first
11 index section that there was a medical examination report
12 on Kathryn Spencer. I see no reason why it would be
13 included in the second index since it was already referred
14 to in the first index.

15 Q (By Ms. Zellner) And is it your testimony since it was --
16 the report was included in the index that you would have
17 reviewed the medical report on Kathryn Spencer?

18 A I can only -- I can only speculate at this point that if it
19 was attached to that report, I may have looked at it. I
20 doubt if I reviewed it because I'm not a medical doctor as
21 you aptly pointed out, so I --

22 Q The custom and practice was for the Sheriff's Department to
23 supply the prosecutor's office with all of the reports in
24 the file; is that correct?

25 A Any report that was going to be referred to the

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1 prosecutor's office was indicated as such, and the Records
2 Division at the Sheriff's office would ultimately refer
3 those to the prosecutor's office, correct.

4 Q And, in your experience, would a medical report of the
5 complaining witness, one of the complaining witnessing, be
6 sent to the prosecutor's office?

7 A Just making an assumption, I would assume that would be the
8 case, yes.

9 Q Let's talk about when Ray Spencer was incarcerated after
10 the February 28, 1985 arrest, that time period. Do you
11 recall whether or not, while Spencer was in jail, you ever
12 visited him in the jail?

13 A As I previously stated, I think, in prior testimony, in
14 1995 specifically, or '96, I have no recollection of
15 visiting him at all in the jail.

16 Q Does that mean you may have visited him and you don't
17 remember it?

18 A I don't believe that I did, but I certainly have no
19 recollection of those events.

20 Q Do you recall ever receiving any contact from any jail
21 staff concerning your visits to see Spencer?

22 A If I did not go to the jail, if I have no recollection of
23 going to the jail to see him, I don't recall having any
24 contacts with jailers in regards to those visits that
25 didn't exist.

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1 Q Did anyone on the staff at the jail ever contact you or
2 your department about your visits to Ray Spencer? Whether
3 they occurred or not, was there ever any contact made
4 concerning the issue of you visiting Ray Spencer?

5 A Contact with me personally?

6 Q You or your department.

7 A I can't answer for my department. I can only answer for
8 me, and no.

9 Q So you have no personal knowledge that anyone from the jail
10 ever contacted anyone in your department about your alleged
11 visits to Ray Spencer?

12 A That's correct. I don't have any personal knowledge.

13 Q Okay. If Ray Spencer has testified that you came to the
14 jail, you removed him from the medical area and took him
15 down and interrogated him, would he be incorrect about that
16 memory?

17 A First of all, I could not have removed him from the medical
18 area. That simply didn't happen. The process and the
19 protocol of the jail would not --

20 Q I'm just asking you -- that's not my question. I'm not
21 asking you to explain what you think would have happened at
22 the jail. It's a simple question. I asked you if Ray
23 Spencer is contending that you were interrogating him at
24 the jail, regardless of where you interrogated him, that he
25 is incorrect, that is untrue? That's a "yes" or "no."

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- 1 A At this point I did not interview him in the jail.
- 2 Q Okay. Did you ever go to the jail with Detective Krause
3 for her to go in and see Spencer?
- 4 A Not to my recollection, no, ma'am.
- 5 Q Have you -- did you at any time prior to Mr. Spencer's
6 guilty plea make a statement to him "Your wife used to love
7 you"?
- 8 A I have read that in the file. I do not believe that I ever
9 made that statement, no, ma'am.
- 10 Q Well, was that true, that his wife used to love him?
- 11 A From the information that was provided in these reports
12 that you provided me, there's certainly an indication that
13 she did.
- 14 Q That she did love him?
- 15 A Correct.
- 16 Q So, at that point in time, you made no such statement to
17 Ray Spencer, correct?
- 18 A That's my recollection.
- 19 Q Did you ever send Shirley Spencer to attempt to get a Power
20 of Attorney from Ray Spencer?
- 21 A Can you explain that question a little bit further? Did I
22 ever send Shirley Spencer? What are you saying?
- 23 Q Did you ever request -- did you ever request that Shirley
24 Spencer visit Ray Spencer in the jail and sign a Power of
25 Attorney? Did you ever make that request?

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1 A No.

2 Q Did you ever send Sharon Krause to the jail to visit Ray
3 Spencer, for any reason?

4 A I could not specifically recall that happening, no, ma'am.

5 Q Do you recall -- you said you recalled no complaints being
6 made by the jail staff of your visiting Ray Spencer; is
7 that correct?

8 A I've read in the file where there was a complaint or an
9 allegation made by a correction officer that deals with an
10 officer, not naming me specifically. That was in the file
11 that you provided me.

12 Q Are you aware of any witness statements that have been
13 obtained where the witnesses have said you were, in fact,
14 at the jail visiting Ray Spencer?

15 A I read a statement by or an affidavit by a Mr. Purse, I
16 believe, in which he indicated that was the case, correct.

17 Q Okay. And is that affidavit untrue?

18 A Yes, ma'am.

19 Q You're positive you never visited the jail --

20 A I have no specific recollection --

21 Q -- to see Ray Spencer?

22 A I visited the jail on a number of occasions.

23 Q No. To see Ray Spencer?

24 A I have no --

25 Q You're telling us --

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1 A I have no recollection of ever visiting Ray Spencer in the
2 jail. I previously testified to that in 1995.

3 Q You've also testified that you did not visit him at the
4 jail, correct? Not that you don't recall, but that you
5 never visited him at the jail?

6 A Correct.

7 Q Do you stand by that testimony?

8 A I do.

9 Q When is the last time you spoke to Shirley Spencer?

10 A For any specific reason?

11 Q Yes.

12 A I recall a phone call conversation somewhere around the
13 time of the depositions for the federal review in 1995 or
14 '96. Since that time, I can't recall whether I have seen
15 her at a function on a social basis or not.

16 Q You can't recall that? You may have seen her at a social
17 function?

18 A She belonged to a saddle club that I belonged to, and what
19 I'm saying is that there was -- there were times when I
20 have observed her. I may have said hello or something of
21 that nature. We didn't have any long, lengthy
22 conversations.

23 Q Following your deposition in the habeas matter, did you
24 have any conversation with her?

25 A I believe that there's an indication that we had a phone

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1 evidence in this case mysteriously appears, so I want to
2 make sure that I'm provided with that in time to redepose
3 him.

4 Q (By Ms. Zellner) I want to ask you if all of the prior
5 testimony you've given under oath is true.

6 A To the best of my knowledge and ability to recall.

7 Q Would you agree that the investigation of Ray Spencer was
8 conducted exclusively under your supervision?

9 A No.

10 Q Okay. If not, tell me why you disagree with that
11 statement.

12 A Well, first of all, I believe the prosecutor would have
13 been involved and --

14 Q I'm talking about the investigation.

15 A That would have been part of --

16 Q Yeah.

17 A That would have been part of the prosecutor's review. He
18 may have had --

19 Q So you're talking about Jim Peters?

20 A I'm talking about any -- any prosecutor that would have
21 been involved with the Spencer investigation.

22 Q Well, do you know of any prosecutor other than Jim Peters
23 that was involved with the Spencer investigation?

24 A I could name one specifically, yes.

25 Q Who else besides Jim Peters?

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1 A Art Curtis.

2 Q So it's your testimony --

3 MS. FETTERLY: I'm just going to pose an
4 objection to the form of this line of questioning, but go
5 ahead and answer.

6 THE WITNESS: Okay.

7 A I'm sorry. I didn't give you a chance to --

8 Q (By Ms. Zellner) So can you explain to me the involvement
9 of Art Curtis in the investigation.

10 MS. FETTERLY: Object to the form of the
11 question.

12 You can answer if you can.

13 A Ultimately I think all decisions for charging rested with
14 the prosecuting attorney of Clark County. Therefore, Art
15 Curtis being the prosecutor at that time, I assume he would
16 have made any of those decisions.

17 Q (By Ms. Zellner) But my question was: Did you have
18 exclusive control over supervising the Ray Spencer
19 investigation?

20 A And, again, I'm going to respond that no, that's not a
21 correct statement.

22 Q And is it your testimony that prosecutor Jim Peters and Art
23 Curtis were involved in the Ray Spencer investigation?

24 MS. FETTERLY: Object to the form of the
25 question. Clarify what you mean by "investigation" to be

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1 certain that the witness understands.

2 Q (By Ms. Zellner) You know what an investigation is. I'm
3 talking about prior to charging.

4 MS. ZELLNER: I would ask you not to coach him.

5 MS. FETTERLY: I'm making objection to the form
6 of the question.

7 MS. ZELLNER: You can make the objections, but
8 you can't coach the witness. He's the one that interjected
9 their names into the investigation. I'm asking him --

10 MS. FETTERLY: But, Ms. Zellner, you're using a
11 legal --

12 MS. ZELLNER: -- other than -- would you please
13 stop coaching the witness?

14 MS. FETTERLY: You're using a legal term.
15 That's why I'm making my objection.

16 MS. ZELLNER: "Investigation" is not a legal
17 term.

18 MS. FETTERLY: It can be.

19 Q (By Ms. Zellner) Tell me again. Was the Ray Spencer
20 investigation under your exclusive supervision prior to the
21 charging?

22 MR. FREIMUND: Objection. It's been asked and
23 answered twice.

24 Go ahead and answer a third time.

25 A The third time again, I would respond no.

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1 Q (By Ms. Zellner) And then my question is: If you were not
2 exclusively supervising the Ray Spencer investigation, who
3 else was involved in the Ray Spencer investigation
4 supervising it?

5 A Again, as I indicated previously, the prosecutor -- the
6 prosecuting attorney's office was involved during the
7 course of the investigation.

8 MS. ZELLNER: Okay. All right. I don't have
9 any further questions.

10 MR. FREIMUND: I don't have any follow-up.

11 MS. ZELLNER: Do you want to waive or reserve?

12 MR. FREIMUND: We reserve.

13 Anybody else?

14 MR. BOGDANOVICH: No.

15 MS. FETTERLY: No.

16 (Concluded at 0:00 a.m.)

17 (Signature reserved)

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C E R T I F I C A T E

I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

That the foregoing deposition of JAMES MICHAEL DAVIDSON was taken before me and completed on the 5th day of November, 2012, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the deposition of JAMES MICHAEL DAVIDSON and promptly serving the same upon MS. KATHLEEN ZELLNER.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2012.

Dixie J. Cattell, RPR, CCR
NCRA Registered Professional Reporter
Washington Certified Court Reporter CSR#2346
License Expires July 16, 2013.